

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE CRIME OF PUBLIC NUDITY; AND PROVIDING
5 AN EFFECTIVE DATE."

6

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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9 NEW SECTION. **Section 1. Public nudity -- allowing public nudity.** (1) A person commits the
10 offense of public nudity if the person knowingly appears nude in a public place or in any other place that
11 is readily visible to the public, except a place provided or set apart for nudity. A person or entity commits
12 the offense of allowing public nudity if the person or entity owns, operates, or maintains a public place,
13 except a place provided or set apart for nudity, and knowingly allows a person to appear nude in that
14 place.

15 (2) A person convicted of public nudity or of allowing public nudity shall be fined an amount not
16 to exceed \$500 or be incarcerated for a term not to exceed 6 months, or both. Upon a second conviction,
17 the person shall be fined an amount not to exceed \$1,000 or be incarcerated for a term not to exceed 1
18 year, or both. Upon a third or subsequent conviction, the person shall be incarcerated in a state prison for
19 a term of not less than 1 year or more than 5 years and may be fined an amount not to exceed \$10,000.

20 (3) This section does not prohibit:

21 (a) photographs, movies, video presentations, or any other nonlive performances; or

22 (b) live performances having serious artistic, social, scientific, or political value, including but not
23 limited to ballet, opera, plays, musical drama, and live theater.

24 (4) As used in this section:

25 (a) "entity" means a proprietorship, partnership, corporation, association, business trust, joint
26 venture, joint-stock company, or other for-profit or nonprofit organization.

27 (b) "nude" means the showing of:

28 (i) human male or female genitals or pubic area with less than a fully opaque covering;

29 (ii) any portion of the anal cleft or cleavage of the male or female buttocks. Attire that renders a
30 person nude includes but is not limited to G-strings, T-backs, thongs, and any other clothing or covering

1 that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks.

2 (iii) the portion of the human female breast directly or laterally below a point immediately above
3 the top of the areola with less than a fully opaque covering. This definition includes the entire lower portion
4 of the human female breast, but does not include any portion of the cleavage of the human female breast
5 exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing if the areola is not exposed.

6 (iv) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

7 (c) "person" means a live human being 7 or more years of age.

8 (d) "place provided or set apart for nudity" means an enclosed single-sex public restroom; enclosed
9 single-sex functional shower, locker room, or dressing room; enclosed motel room, hotel room, or other
10 room for lodging designed and intended for sleeping accommodations; doctor's office; hospital; and similar
11 places in which nudity or exposure is necessarily and customarily expected outside of the home and within
12 the sphere of privacy that is constitutionally protected with respect to those places. The term does not
13 include a place where a person's nudity is used for the person's profit or where being nude is used for the
14 promotion of business or is otherwise commercially exploited.

15 (e) "public place" means a location:

16 (i) frequented by the public;

17 (ii) where the public is present or likely to be present; or

18 (iii) where a person may reasonably be expected to be observed by members of the public,
19 including but not limited to a street; sidewalk; park; beach; hotel; motel; restaurant; bar; nightclub; country
20 club; cabaret; meeting facility used by a religious, social, fraternal, or similar organization; or other
21 for-profit or nonprofit business or commercial establishment, whether open to the public at large or
22 whether entrance is limited by a cover charge or membership requirement.

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24 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an
25 integral part of Title 45, chapter 8, part 2, and the provisions of Title 45 apply to [section 1].

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27 NEW SECTION. **Section 3. Effective date.** [This act] is effective 30 days after passage and
28 approval.

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